THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.5047 of 2007

Between:

Pradeep Kumar Jhah.

.. PETITIONER

and

The Deputy Commissioner, Prohibition and Excise.

.. RESPONDENT

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ORDER:

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It is stated that the petitioner is the owner of Auto bearing No. AP-01U-5081 and the said vehicle has been seized in connection with an

excise offence under Pr.No.730/2005-05, dated 17-02-2006, of the Station House Officer, Mancherial.

If any vehicle is involved in the illegal transportation of liquor, the said vehicle has to be confiscated and, as such, the Prohibition and Excise Inspector, Mancherial, filed a case before the Deputy Commissioner of Prohibition and Excise, Karimnagar Division, for confiscation of the said vehicle. Pending disposal of the said confiscation proceedings, the petitioner filed representation, dated 25-04-2006, for grant of interim custody of the vehicle in question. Accordingly, the respondent passed the impugned order, dated 16-02-2007, directing for interim release of the vehicle in favour of the petitioner subject to the condition that the petitioner shall submit FDR for a sum of Rs.49,000/- in favour of the Deputy Commissioner of Prohibition and Excise, Karimnagar-respondent, issued by any nationalised bank and he shall execute a bond with two sureties with an undertaking not to sell, alienate, transfer and to produce the vehicle as and when required by the respondent.

Aggrieved by the said order, this writ petition has been filed stating that the condition imposed by the respondent to furnish FDR is onerous and imposing such condition is as good as not releasing the vehicle in question.

Ultimately, if any order has been passed confiscating the vehicle, there should be sufficient security with the respondent for the value of the said vehicle.

Having regard to the facts and circumstances of the case, I am of the opinion that instead of FDR, it is just and proper to insist upon the petitioner to give bank guarantee for the said amount of Rs.49,000/-.

Therefore, condition No.1 imposed in the impugned order is

modified to the effect that the petitioner shall submit bank guarantee in favour of the respondent issued by any Nationalised Bank. Further, it is made clear that as and when the bank guarantee is furnished by the petitioner and also after complying condition No.2 imposed in the impugned order, the vehicle in question shall be released, forthwith.

Accordingly, the writ petition is deposed of. There shall be no order as to costs.

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13-03-2007

Prv